

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of Interstate Power and Light  
Company’s Petition for Approval of  
Eligibility for Investment in Whispering  
Willow - East, Renewable Energy  
Recovery Adjustment, and 2010 Rate

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**AMENDED FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
RECOMMENDATION**

**COMMISSION DIRECTIVE**

By an Order issued on October 26, 2012, the Minnesota Public Utilities Commission (Commission) requested that the Office of Administrative Hearings (OAH) conduct a contested case hearing regarding Interstate Power and Light Company's Petition for Approval for Eligibility for Investment in Whispering Willow – East, Renewable Energy Recovery Adjustment and 2010 Rate.<sup>1</sup> Specifically, the Commission referred to the OAH all issues related to determining Interstate Power and Light Company's costs associated with the Whispering Willow – East (WWE), and the allowable cost recovery.<sup>2</sup> In the interim, however, the Commission authorized a temporary renewable energy rider and established a temporary rate of cost recovery, which shall continue until this docket is completed.<sup>3</sup>

By an Order issued on February 22, 2013, the Commission referred to the OAH the issue of recovery of costs related to Whispering Willow -- East for 2013.<sup>4</sup> The Commission's Order deferred the consideration of Renewable Energy Credit (REC) purchase costs to the renewable energy standards rider filing subsequent to the determination of the issues in the current docket.<sup>5</sup>

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<sup>1</sup> NOTICE AND ORDER FOR HEARING, PUCDocket No. E-001/M-10-312 (October 26, 2012), filed as Document ID 201210-79956-01.

<sup>2</sup> *Id.*

<sup>3</sup> *In the Matter of the Application of Interstate Power and Light Company for Authority to Increase Rates for Electric Service in Minnesota*, FINDINGS OF FACT, CONCLUSIONS, AND ORDER, PUC Docket No. E-001/GR-10-276 (August 12, 2011), filed as Document ID 20118-65311-01.

<sup>4</sup> ORDER REFERRING WHISPERING WILLOW WIND – EAST ISSUES TO DOCKET NO. E-001/M-10-312 AND DEFERRING CONSIDERATION OF REC PURCHASE COSTS TO RES RIDER FILING, PUC Docket No. E-001/M-10-312 (February 22, 2013), filed as Document ID 20132-84059-04.

<sup>5</sup> *Id.*

## **CONTESTED CASE HEARING**

This matter came on for hearing before Administrative Law Judge Ann O'Reilly on June 19, 2013, at the office of the Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota.

Appearances were as follows:

Kent Ragsdale, Managing Attorney – Regulatory, Interstate Power and Light Company; and Richard J. Johnson and Valerie M. Means, Moss & Barnett P.A., appeared as counsel for Interstate Power and Light Company (IPL or Company).

Julia Anderson, Assistant Attorney General, appeared on behalf of the Minnesota Department of Commerce, Division of Energy Resources (Department).

Ronald M. Giteck, Assistant Attorney General, and Ian Dobson, Assistant Attorney General, appeared on behalf of the Minnesota Office of Attorney General, Antitrust and Utilities Division (OAG).

Richard Savelkoul, Martin & Squires, P.A., appeared on behalf of the Minnesota Chamber of Commerce (MCC).<sup>6</sup>

Clark Kaml was present for the Commission.

During the course of the submission of written pre-filed testimony, the parties arrived at a stipulated proposal, the terms and conditions of which were agreeable to all parties (IPL, the Department, the OAG, and the MCC). Therefore, no additional testimony was presented at the hearing.

IPL filed an Initial Post-Hearing Brief on July 17, 2013. The Department filed a Reply Brief on August 9, 2013. On September 11, 2013, the Department and IPL submitted Joint Proposed Findings of Fact, Conclusions of Law, and Recommendation, which incorporated the parties' agreed proposal. Said proposal is incorporated herein.

## **STATEMENT OF THE ISSUES**

1. Was IPL's investment in WWE an investment to satisfy the renewable energy objectives and standards set forth in Minn. Stat. § 216B.1691 (the Renewable Energy Standards)?

2. Is IPL's investment in WWE, and its associated costs, eligible for recovery under Minn. Stat. § 216B.1645, subd. 1?

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<sup>6</sup> MCC filed comments in this matter but did not intervene. See, MCC COMMENTS, PUC Docket No. E-001/M-10-312 (September 4, 2012), eFiled as Document ID 20129-78361-01.

3. Should IPL's proposed new renewable cost recovery rider tariff (renewable energy standards rider), including IPL's proposed true-up methodology using annual adjustments, be approved under Minn. Stat. § 216B.1645, subd. 2?

4. Should IPL's proposed renewable energy standards rider rate be implemented in the first month following the Commission's approval of the rate and be included in the Resource Adjustment Charge line on IPL's customer bills, along with appropriate customer notice?

### **SUMMARY OF RECOMMENDATION**

Based upon the parties' stipulated facts and agreements, the Administrative Law Judge respectfully recommends that the Commission:

1. Find that IPL's investment in WWE was incurred to satisfy the renewable energy objectives and standards set forth in Minn. Stat. § 216B.1691, subds. 2 and 2a.

2. Approve IPL's investment in WWE, and its associated costs, as eligible for recovery under Minn. Stat. § 216B.1645, subject to the terms and conditions of the Final Proposal.

3. Find that the stipulated costs of WWE are reasonable and prudent, subject to the adoption of the terms and conditions of the Final Proposal.

4. Permit the recovery of the Minnesota portion of WWE's investment costs through a renewable energy standards rider under Minn. Stat. § 216B.1645, subds. 2 and 2a, as provided in the Final Proposal reached by IPL and the Department.

5. Approve the implementation of a renewable energy standards rider, under the express terms and conditions of the Final Proposal stated below.

6. Approve a 2013 renewable energy standards rider rate, as set forth in the Final Proposal below.

7. Adopt the Final Proposal accepted by IPL, the Department, OAG, and MCC, which provides as follows:

- a. The final revenue requirement amount determined by the Commission in this proceeding shall commence January 1, 2013, with true-up from that date. Recovery amounts that exceed the amounts shown in Column G of Attachment 1 to the Department's Reply Brief, will be subject to a reasonableness review, as provided in Subparagraph g below.
- b. The revenue requirement approved by the Commission shall be based on the full investment of WWE, plus the current annual Operations and Maintenance (O&M) costs assuming a January 1, 2013 start date. Recovery amounts that

exceed the amounts shown in Column G of Attachment 1 to the Department's Reply Brief, will be subject to a reasonableness review, as provided in Subparagraph g below.

- c. IPL shall forego recoveries of the approved amount above \$1.9 million per year from April 2, 2010 (initial application for cost recovery), through December 31, 2012.
- d. Current recovery levels [a revenue requirement of approximately \$1.9 million per year, including Production Tax Credits (PTCs), or the equivalent of \$51 per megawatt hours (MWH) estimated levelized cost] shall continue to be recovered in the renewable energy standards rider until the final decision in this docket, which is expected to be issued by January 1, 2014.
- e. IPL will retain a renewable energy standards rider, and all PTCs and RECs shall flow through the renewable energy standards rider and be reconciled annually. The first reconciliation shall be for calendar year 2013.
- f. In the next rate case, IPL expects to propose that all prudent capital and O&M costs (excluding PTCs and RECs) will be moved into base rates, subject to review by other parties and approval by the Commission.
- g. The Commission's Order shall include the following condition:

IPL is on notice that, if IPL seeks any increase above an effective levelized cost of \$56.40 per MWh in any rate proceeding, IPL must include detailed and transparent information supporting the request. Further, IPL bears the burden of proof regarding a future rate increase such that any doubt as to the reasonableness of the request (or of the information filed in support of the request) will go to the ratepayer.<sup>7</sup>

Based upon the Findings of Fact and Conclusions of Law below, the Administrative Law Judge makes the following:

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<sup>7</sup> See, JOINT PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATION, PUC Docket No. E001/M-10-312 (September 11, 2013) eFiled as Document ID 20139-91185-01.

## FINDINGS OF FACT

### A. IPL and WWE

1. IPL is an Iowa corporation, headquartered in Cedar Rapids, Iowa. IPL is a separate legal entity and first-tier, wholly-owned subsidiary of Alliant Energy, a public utility holding company. IPL was incorporated in 1925.<sup>8</sup>

2. IPL provides utility services to 752 communities in Iowa and southern Minnesota.<sup>9</sup> As of year-end 2010, IPL served 525,657 electric customers and 233,792 gas customers in its service territories, including approximately 40,000 retail electric customers in Minnesota.<sup>10</sup>

3. In December 2009, IPL completed construction of WWE, a wind farm located in north central Iowa.<sup>11</sup> WWE provides 200 MW of nameplate capacity to IPL's renewable portfolio.<sup>12</sup> WWE consists of 121 Vestas V82 Wind Turbine Generators (WTGs), each with a nameplate generating capacity of 1.65 MW; tower foundations; operational equipment; electric collection circuit lines; substation; certain IPL-owned interconnection facilities and lines; access roads; and landowner easement agreements.<sup>13</sup>

4. IPL is the sole owner and operator of WWE.<sup>14</sup> WWE is IPL's first owned wind facility.<sup>15</sup>

5. There are no purchased power agreements (PPAs) or commitments to other entities with respect to WWE's output.<sup>16</sup>

6. WWE was placed into service on December 11, 2009.<sup>17</sup>

7. IPL asserts that the generation from WWE will be used to meet the electric energy needs of IPL's Minnesota and Iowa customers.<sup>18</sup>

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<sup>8</sup> *In the Matter of the Application of Interstate Power and Light for Authority to Increase Rates for Electric Service in Minnesota*, ADMINISTRATIVE LAW JUDGE'S FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATION, PUC Docket No. E-001/GR-10-276 (April 27, 2011) at 2, eFiled as Document ID 20114-61805-01.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Ex. 4 at 4 (Arenson Direct Testimony)

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Ex. 3, Madsen Direct at 10.

## B. Jurisdictional-Procedural Background

8. On April 2, 2010, IPL filed a Petition for Approval for Eligibility for Investment in Whispering Willow – East, Renewable Energy Recovery Adjustment and 2010 Rate (Petition) requesting that the Commission:

(a) Find that WWE is a qualifying renewable energy project under Minn. Stat. § 216B.1691;

(b) Find the costs of WWE to be reasonable and prudent; and

(c) Permit recovery of the Minnesota portion through a renewable energy standards rider under Minn. Stat. § 216B.1645, subd. 2a.<sup>19</sup>

9. While the Department agreed that IPL was not required to obtain any pre-approval for WWE from the Commission, the Department noted that IPL could have sought pre-approval for WWE through a miscellaneous or eligibility filing with the Commission prior to seeking cost recovery under Minn. Stat. §§ 216B.1645 and 216B.1691.<sup>20</sup>

10. On May 7, 2010, IPL filed an Application for Authority to Increase Electric Retail Rates in Docket No. E-001/GR-10-276 (the IPL 2010 Rate Case).<sup>21</sup>

11. On May 25, 2010, the Commission issued an Order Transferring Transmission Cost Recovery Rider Issues to Rate Case and Requiring Supplemental Filing.<sup>22</sup> In that Order, the Commission directed that the development of issues relating to the recovery of costs under IPL's proposed renewable energy standards rider be addressed in the IPL 2010 Rate Case.<sup>23</sup> The Commission denied IPL's request to recover the costs of WWE for the period of January 1, 2010 to July 6, 2010 (the day that interim rates became effective in the IPL 2010 Rate Case).<sup>24</sup>

12. In its Findings of Fact, Conclusions, and Order in the IPL 2010 Rate Case, the Commission determined that the record was not sufficient to fully decide the issues of cost recovery relative to WWE.<sup>25</sup> It, therefore, referred the issue of cost recovery to

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<sup>19</sup> Exs. 1 and 2.

<sup>20</sup> Ex. 22 at 6 (Johnson Public Direct).

<sup>21</sup> See, *In the Matter of the Application of Interstate Power and Light Company for Authority to Increase Rates for Electric Service in Minnesota*, APPLICATION FOR AUTHORITY TO INCREASE ELECTRIC RETAIL RATES, PUC Docket No. E-001/GR-10-276 (May 7, 2010).

<sup>22</sup> *In the Matter of the Application of Interstate Power and Light Company for Authority to Increase Rates for Electric Service in Minnesota*, ORDER TRANSFERRING TRANSMISSION COST RECOVERY RIDER ISSUES TO RATE CASE AND REQUIRING SUPPLEMENTAL FILING, PUC Docket No. E-001/GR-10-276 (May 25, 2010), eFiled as Document ID 20105-50796-01.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *In the Matter of the Application of Interstate Power and Light Company for Authority to Increase Rates for Electric Service in Minnesota*, FINDINGS OF FACT, CONCLUSIONS, AND ORDER, PUC Docket No. E-001/GR-10-276 (August 12, 2011), eFiled as Document ID 20118-65311-01 at 26.

this docket for further development of the record.<sup>26</sup> The Commission further clarified in an Order dated November 8, 2011, that all cost recovery issues relating to WWE were yet to be determined.<sup>27</sup>

13. The Commission also set an interim renewable energy standards rider with a temporary cost recovery rate of \$51 per MWh, which was subject to true-up after the conclusion of this proceeding.<sup>28</sup>

14. On October 26, 2012, the Commission issued a Notice and Order for Hearing in the current docket.<sup>29</sup> The Order referred all issues concerning the treatment of costs related to WWE to the Office of Administrative Hearings (OAH) for contested case proceedings in this current docket.<sup>30</sup> The Commission further concluded that the record in Docket No. E-001/M-10-312 (the current docket) would include all information relating to WWE contained in the IPL 2010 Rate Case, as well as trade secret information from dockets involving three other utilities' wind projects.<sup>31</sup>

15. On or about January 25, 2013, IPL filed the Direct Testimony of Erik Madsen, Jason Nielsen, Randy Bauer, Michelle Arenson, and David Vognsen.<sup>32</sup>

16. On April 10, 2013, the Department filed "Revised Corrected" Direct Testimony of Mark Johnson.<sup>33</sup>

17. On May 10, 2013 IPL filed the Rebuttal Testimony of Randy Bauer, Erik Madsen, Michelle Arenson, and Jason Nielsen.<sup>34</sup>

18. The Department filed the Surrebuttal Testimony of Mark Johnson on June 7, 2013.<sup>35</sup>

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<sup>26</sup> *Id.*

<sup>27</sup> *In the Matter of the Application of Interstate Power and Light Company for Authority to Increase Rates for Electric Service in Minnesota*, Order After Reconsideration Clarifying and Modifying Order of August 12, 2011, PUC Docket No. E-001/GR-10-276 (November 8, 2011), eFiled as Document ID 20111-68201-01 at 5.

<sup>28</sup> *In the Matter of the Application of Interstate Power and Light Company for Authority to Increase Rates for Electric Service in Minnesota*, FINDINGS OF FACT, CONCLUSIONS, AND ORDER, PUC Docket No. E-001/GR-10-276 (August 12, 2011), eFiled as Document ID 20118-65311-01 at 52.

<sup>29</sup> NOTICE AND ORDER FOR HEARING, PUC Docket No. E-001/M-10-312 (October 26, 2012), eFiled as Document ID 201210-79956-01.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* In IPL's 2010 Rate Case, the Department conducted a cost analysis for WWE by comparing WWE's levelized costs to the levelized costs of three Minnesota wind farms – Minnesota Power's Bison Project, PUC Docket Nos. E-015/M-09-285 and E-015/M-273; Xcel Energy's Nobles Project, Docket Nos. E-002/M-0-1437 and E-002/M-09-1083; and Otter Tail Power's Luverne Project, Docket Nos. E-017/M-09-883 and E-017/M-09-1484. Moreover, in the SECOND PREHEARING ORDER, PUC Docket No. E-001/M-10-312 (April 29, 2013), the Administrative Law Judge specifically identified the documents that make up the record of this proceeding.

<sup>32</sup> Exs. 3-6.

<sup>33</sup> Exs. 22-23.

<sup>34</sup> Exs. 7-21.

<sup>35</sup> Exs. 24-25.



**C. Qualification of WWE as an Eligible Energy Technology under the Renewable Energy Standards Statute, Minn. Stat. § 216B.1691**

19. The Renewable Energy Standards Statute, Minn. Stat. § 216B.1691, sets renewable energy objectives and standards for Minnesota utilities, including IPL.

20. The generation of electricity from wind is an “eligible energy technology” under Minn. Stat. § 216B.1691, subd. 1.<sup>36</sup>

21. The parties stipulate that WWE qualifies as an eligible energy technology under Minn. Stat. § 216B.1691.

**D. Different Methods of Determining Cost Recovery Under Minn. Stat. § 216B.1645**

22. The Cost Recovery Statute, Minn. Stat. § 216B.1645, subd. 1, allows a utility to petition the Commission to approve investments and expenditures to satisfy the renewable energy objectives and standards set forth in Minn. Stat. § 216B.1691.

23. The Cost Recovery Statute also:

- (a) allows cost recovery of prudently incurred investments, expenses and costs of facilities constructed, owned, or operated to meet the requirements of the Renewable Energy Standards Statute; and
- (b) authorizes the Commission to approve a rate schedule that allows a utility to recover the costs of qualifying renewable energy projects on a timely basis.<sup>37</sup>

24. The Department and IPL initially made different proposals for determining the cost recovery issues. These differing views were presented at length in expert testimony, in IPL’s Initial Post-Hearing Brief, and in the Department’s Reply Brief, but are summarized below.

25. IPL initially proposed that the rates for WWE be calculated by dividing the annual revenue requirement determined by the Commission by the annual forecasted sales, a method IPL asserts has been used by the Commission for cost recovery in other wind projects.<sup>38</sup> IPL proposed that any amount determined in the proceeding in excess of the annualized \$1,895,000 temporary revenue requirement be recovered through the renewable energy standards rider until IPL’s next rate case.<sup>39</sup> IPL proposed

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<sup>36</sup> Minn. Stat. § 216B.1691, subd.1(a)(2).

<sup>37</sup> Minn. Stat. § 216B.1645, subds. 2 and 2a.

<sup>38</sup> IPL’S INITIAL POST-HEARING BRIEF, PUC Docket No. E-001/M-10-312 (July 17, 2013); Ex.3 (Madsen Direct Testimony).

<sup>39</sup> *Id.*

that the costs for WWE [other than Protection Tax Credits (PTCs)], should be included in base rates in the IPL's next rate case and that IPL be allowed to recover its costs for WWE beginning April 2, 2010.<sup>40</sup> IPL asserted that it has collected amounts for WWE equivalent to an annual revenue requirement of \$1,895,000.00 since July 6, 2010.<sup>41</sup>

26. IPL contends that WWE is consistent with both Minnesota policy and IPL's 2005 Integrated Resource Plan (IRP) approved by the Commission.<sup>42</sup> IPL argued that its investment and the costs associated with WWE were reasonable and prudent under the conditions existing at the time it was constructed; and that its costs compare favorably to the costs of other utility-owned wind generating facilities constructed in Minnesota during the same timeframe.<sup>43</sup>

27. IPL calculated that the levelized costs of WWE were \$68.39 per MWh, but that the use of the levelized cost of energy for purposes of setting utility rates was not reasonable.<sup>44</sup> IPL asserted that the WWE revenue requirement for use in determining the renewable energy standards rider rate level and the true-up of WWE costs and related revenues was \$4.1 million for 2010, and \$3.7 million for 2011, excluding PTCs.<sup>45</sup>

28. IPL detailed its cost recovery proposal in the Direct Testimony of David Vognesen.<sup>46</sup>

29. The Department disagreed with IPL's cost recovery calculations and performed a levelized cost comparison analysis to determine whether IPL's WWE costs were reasonable.<sup>47</sup> The Department concluded WWE and its costs were not reasonable or prudent.<sup>48</sup> The Department argued that: IPL chose to construct WWE in a location that limited deliverability of power; built WWE without approval or preapproval of the reasonableness of its claimed costs; IPL's 2005 IRP did not demonstrate the prudence of building WWE; the facilities were constructed without using a competitive bidding process; the costs were not shown to be reasonable or prudent; WWE was not needed to meet IPL's renewable resource requirements; IPL's 2007 IRP filing did not support a levelized price of \$62.50 per MWh; and IPL's calculation sought to recover all WWE-related costs, not just capital costs.<sup>49</sup>

30. The Department compared WWE's levelized price against three other utility-owned wind farms in Minnesota that were placed into service around the same

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<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> IPL'S INITIAL POST-HEARING BRIEF, PUC Docket No. E-001/M-10-312 (July 17, 2013); Exs. 4, 7, 8, 16, 17 (Bauer and Arenson Direct Testimony; Bauer and Arenson Rebuttal Testimony).

<sup>44</sup> IPL'S INITIAL POST-HEARING BRIEF, PUC Docket No. E-001/M-10-312 (July 17, 2013); Ex. Ex. 3 (Nielsen Direct).

<sup>45</sup> *Id.*

<sup>46</sup> Ex. 3 (Vognesen Direct Testimony).

<sup>47</sup> Ex. 22 (Revised Corrected Testimony of Johnson).

<sup>48</sup> *Id.*

<sup>49</sup> See DOC'S REPLY BRIEF, PUC Docket No. E-001/M-10-312 (August 9, 2013), eFiled as Document ID 20138-90139-02.

time as WWE.<sup>50</sup> The Department concluded that IPL did not demonstrate that its costs to develop WWE were reasonable when compared to the costs of the three other wind farms.<sup>51</sup> The Department recommended that IPL's WWE cost recovery be limited to WWE's actual energy output at the rate of \$51 per MWh, based on the average levelized cost of the three other utility-owned wind farms.<sup>52</sup>

31. In their initial calculations and analyses, IPL and the Department offered differing views with respect to the following topics:

- The significance of timing of IPL's petition regarding WWE;
- The need for, and cost-effectiveness of, WWE at time of construction;
- Cost recovery amounts and methodologies;
- The significance of IPL's 2005 and 2007 Integrated Resource Plans;
- The reasonableness of using installed (capital) costs versus levelized (total) costs for determining the reasonableness of WWE costs and for cost-recovery purposes;
- The significance of competitive bidding to determine cost-effectiveness;
- The significance of factors related to IPL's location and timing of construction;
- The sufficiency of evidence provided by IPL;
- Whether the revenue requirement and cost recovery for WWE would be based on actual output;
- The significance of prior Commission decisions pertaining to cost recovery for utility-owned wind farms; and
- The significance of WWE levelized costs and WWE installed costs to the respective costs of certain other utility-owned wind projects.<sup>53</sup>

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<sup>50</sup> Ex. 22 (Revised Corrected Testimony of Johnson).

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> See IPL's INITIAL POST-HEARING BRIEF, PUC Docket No. E-001/M-10-312 (July 17, 2013), eFiled as Document ID 20137-89261-02; DOC'S REPLY BRIEF, PUC Docket No. E-001/M-10-312 (August 9, 2013), eFiled as Document ID 20138-90139-02.

## **E. Development of an Alternative Cost Recovery Proposal**

32. During the course of the pre-filing of testimony, IPL and the Department discovered that they could reach common ground on a method to determine cost recovery.

33. In its Rebuttal Testimony, IPL presented an Alternative Cost Recovery Proposal (Alternative Proposal).<sup>54</sup> The terms of the Alternative Proposal were as follows:

- The final revenue requirement amount determined by the Commission in this proceeding would commence January 1, 2013, with true-up from that date.
- The revenue requirement approved by the Commission would be based on the full investment of WWE, plus the current annual Operations and Maintenance (O&M) costs assuming a January 1, 2013 start date.
- IPL would forego recoveries of the approved amount above \$1.9 million per year, from April 2, 2010 (initial application for cost recovery) through December 31, 2012.
- Current recovery levels (a revenue requirement of approximately \$1.9 million per year, including PTCs, or the equivalent of \$51 per MWh estimated levelized cost) would continue to be recovered in the renewable energy standards rider until the final decision in this docket. IPL assumed that date is January 1, 2014.
- IPL will retain a renewable energy standards rider and all PTCs and RECs would flow through the renewable energy standards rider and be reconciled annually. The first reconciliation would be for calendar year 2013.
- In the next rate case, IPL expects to propose that all prudent capital and O&M costs (excluding PTCs and RECs) would be moved into base rates, subject to review by other parties and approval by the Commission.<sup>55</sup>

34. IPL's Alternative Proposal for cost recovery amounts to approximately \$56.40 per MWh on a levelized basis.<sup>56</sup>

35. In Surrebuttal Testimony, the Department recommended acceptance of IPL's Alternative Proposal with certain conditions.<sup>57</sup> Those conditions included:

- that IPL be required to reflect its actual annual revenue requirements

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<sup>54</sup> Exs. 7-21.

<sup>55</sup> Exs. 13 and 14 at pp. 17-18 (Madsen Rebuttal).

<sup>56</sup> Ex. 13 and 14 at 20 (Madsen Rebuttal Testimony).

<sup>57</sup> Exs. 24 and 25 at 6-7 (Johnson Surrebuttal Testimony).

associated with WWE in its annual TCT Rider filing; and

- that the Commission's final order state that if IPL seeks any increase above an effective levelized cost of \$56.40 per MWh in any rate proceeding, then IPL must include detailed and transparent information supporting the request.<sup>58</sup>

36. The Department also insisted that the Commission's final order make clear that IPL bears the burden of proof regarding any future rate increase, such that any doubt as to the reasonableness of the request (or of the information filed in support of the request) will go to the ratepayer.<sup>59</sup> Under the Department's second condition, IPL would have the opportunity to argue for an increase in recovery in the future, but the burden of proof would be on IPL to explain why recovery above an effective levelized cost of \$56.40 per MWh would be reasonable.<sup>60</sup>

37. IPL accepted the Department's two conditions on the Alternative Proposal at the evidentiary hearing.<sup>61</sup>

38. Following additional discussions with the Department, IPL agreed that its Alternative Proposal with the Department's conditions means that, if accepted by the Commission, IPL will be required to reflect its actual annual revenue requirements associated with WWE in its annual renewable energy standards rider filing up to the amounts shown in Column G of Attachment 1 of the Department's Reply Brief.<sup>62</sup> The actual revenue requirements will be subject to a reasonableness review if limits are exceeded in any given year.<sup>63</sup> For purposes of clarification of the conditional language, future recovery shall be based on an analysis of actual revenue requirement to annual revenue requirement of the Alternative Proposal excluding PTCs.<sup>64</sup>

#### **F. The Final Proposal Supported By Both the Department and IPL.**

39. While the Department and IPL initially made different proposals, and while both would advocate for different resolutions of this matter in the absence of settlement, the parties reached an agreement that resolves this matter in a way that serves the public interest (Final Proposal).<sup>65</sup> The parties presented the terms of their agreement in a Joint Proposed Findings of Fact, Conclusions and Recommendation, the terms of which are incorporated herein.

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<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> Transcript of Hearing on June 19, 2013, pp. 10-12 (Johnson, Anderson); IPL's INITIAL POST-HEARING BRIEF, PUC Docket No. E-001/M-10-312 (July 17, 2013) at 12-14.

<sup>62</sup> See, JOINT PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATION, PUC Docket No. E001/M-10-312 (September 11, 2013) eFiled as Document ID 20139-91185-01.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

40. The Final Proposal, supported by both the Department and IPL, is based on the Alternative Proposal presented by IPL in Rebuttal Testimony, and the additional conditions presented by the Department in Surrebuttal Testimony, which were subsequently accepted by IPL.<sup>66</sup>

41. The Final Proposal supported by IPL and the Department is articulated by the parties as follows:

- a. The final revenue requirement amount determined by the Commission in this proceeding shall commence January 1, 2013, with true-up from that date. Recovery amounts that exceed the amounts shown in Column G<sup>67</sup> of Attachment 1 to the Department's Reply Brief, will be subject to a reasonableness review, as provided in Subparagraph g below.
- b. The revenue requirement approved by the Commission shall be based on the full investment of WWE, plus the current annual O&M costs assuming a January 1, 2013, start date. Recovery amounts that exceed the amounts shown in Column G of Attachment 1 will be subject to a reasonableness review, as provided in Subparagraph g below.
- c. IPL will forego recoveries of the approved amount above \$1.9 million per year from April 2, 2010 (initial application for cost recovery) through December 31, 2012.
- d. Current recovery levels (a revenue requirement of approximately \$1.9 million per year, including PTCs, or the equivalent of \$51 per MWh estimated levelized cost) shall continue to be recovered in the renewable energy standards rider until the final decision in this docket, which is expected to be issued by January 1, 2014.
- e. IPL will retain a renewable energy standards rider, and all PTCs and RECs shall flow through the renewable energy standards rider and be reconciled annually. The first reconciliation shall be for calendar year 2013.
- f. In the next rate case, IPL expects to propose that all prudent capital and O&M costs (excluding PTCs and RECs) would be moved into base rates, subject to review by other parties and approval by the Commission.

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<sup>66</sup> Exs. 7-21, 24-25.

<sup>67</sup> The data provided in Column G of Attachment 1 to the Department's Reply Brief are the calculated annual revenue requirements of the Alternative Proposal and are exclusive of PTCs. IPL and the Department have agreed that cost recovery for WWE in future rate proceedings will be measured against the annual revenue requirements of the Alternative Proposal exclusive of PTCs. PTCs are excluded from the calculation of annual revenue requirements in order to remove the general variability of PTCs and due to the condition of retaining the renewable energy standards rider to flow through and reconcile PTCs annually.

- g. The Commission will include in its Order in this proceeding the following language conditions:

IPL is on notice that, if IPL seeks any increase above an effective levelized cost of \$56.40 per MWh in any rate proceeding, IPL must include detailed and transparent information supporting the request. Further, IPL bears the burden of proof regarding a future rate increase such that any doubt as to the reasonableness of the request (or of the information filed in support of the request) will go to the ratepayer.<sup>68</sup>

The terms set forth above, as enumerated from a to g, comprise the entire stipulated Final Proposal.

42. As an express condition of their support for the Final Proposal, the parties agree that if the Commission modifies the Final Proposal, IPL and the Department each reserved the right to reject any such modification; to continue this proceeding; and to present their positions on all issues before the Administrative Law Judge and the Commission.<sup>69</sup>

43. The Department confirms that the Final Proposal: (i) meets the Department's concerns regarding the comparison of WWE costs to the approved costs of other utility-owned wind generation facilities with in-service dates similar to WWE; (ii) meets the Department's concerns regarding initial output limitations; (iii) provides a significant reduction in total cost recovery for WWE; and (iv) maintains basic consistency with the Commission's ratemaking policies.<sup>70</sup>

44. IPL and the Department acknowledge that the Final Proposal:

- Results in just and reasonable rates and is supported by substantial evidence in the record.
- Is consistent with Commission decisions and basic ratemaking standards.
- Meets Minnesota standards and practices for utility cost recovery.
- Accommodates the concerns regarding costs and output limitations that were raised by the Department.

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<sup>68</sup> See, JOINT PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATION, PUC Docket No. E001/M-10-312 (September 11, 2013) eFiled as Document ID 20139-91185-01.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

- Results in estimated levelized costs that compare favorably to the estimated levelized costs of other Commission-approved utility-owned projects.
- Reasonably and efficiently resolves a complicated matter.<sup>71</sup>

45. The Final Proposal is also consistent with Minn. Stat. § 216B.16, subd. 1a, which recognizes that settlements of rate proceedings may be in the public interest and encourages parties to seek to resolve rate disputes.

46. The OAG and the MCC do not oppose the Final Proposal and expressed support for its adoption by the Administrative Law Judge and the Commission.<sup>72</sup>

### **G. Public Interest Analysis of the Final Proposal**

47. IPL and the Department stipulated to the following analysis of the Final Proposal and why it is in the public interest for the Commission to adopt.

48. The Final Proposal addresses the Department's concern that the estimated levelized cost resulting from the Alternative Proposal is consistent with the \$51 per MWh estimated levelized cost average of the three Commission-approved utility-owned projects with in-service dates similar to WWE; although IPL does not agree that estimated levelized costs are the appropriate mechanism to determine cost recovery for utility-owned revenue requirements.<sup>73</sup>

49. IPL provided a calculation showing the estimated levelized cost of approximately \$56.40 per MWh for WWE.<sup>74</sup> This estimated levelized cost used standard revenue requirement calculations in its revised levelized cost calculation.<sup>75</sup> The \$56.40 per MWh estimated levelized cost for WWE compares favorably with the estimated levelized costs of other utility-owned wind projects that have been approved by the Commission.<sup>76</sup> Also, the \$56.40 per MWh estimated levelized cost for WWE is less than the estimated original levelized cost of one of the utility-owned wind projects that the Department relied on in its analysis and recommendation.<sup>77</sup>

50. The Final Proposal accommodates the Department's concerns regarding the temporary transmission constraints on output from WWE.<sup>78</sup> The Final Proposal limits annual cost recovery for the period from July 6, 2010 through December 31, 2012,

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<sup>71</sup> *Id.*

<sup>72</sup> Hearing Transcript on June 19, 2013 at pp. 12-13.

<sup>73</sup> See, JOINT PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATION, PUC Docket No. E001/M-10-312 (September 11, 2013) eFiled as Document ID 20139-91185-01.

<sup>74</sup> Ex. 19 at Schedule F, p.1 (Nielsen Surrebuttal).

<sup>75</sup> Ex. 24 at 8 (Johnson Surrebuttal).

<sup>76</sup> Ex. 13 at 19 (Madsen Rebuttal).

<sup>77</sup> *Id.*

<sup>78</sup> See, JOINT PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATION, PUC Docket No. E001/M-10-312 (September 11, 2013) eFiled as Document ID 20139-91185-01.



to the temporary Commission-approved level of approximately \$1.9 million per year.<sup>79</sup> The resolution of those constraints in 2013 supports the beginning of full WWE cost recovery as of January 1, 2013.<sup>80</sup>

51. The Final Proposal is consistent with approaches that the Commission has used for cost recovery for other utility-owned wind generation facilities in the past.<sup>81</sup> The determination of the revenue requirement for WWE beginning as of January 1, 2013, would be based on the approach that the Commission has applied to all other utility-owned wind generation projects, and reflects reduced O&M expenses starting as of January 1, 2013.<sup>82</sup>

52. The Final Proposal incorporates the lower costs that IPL has been able to achieve into the ongoing revenue requirement for WWE.<sup>83</sup> O&M costs for WWE associated with the initial service contract have been replaced by a lower O&M service contract cost for WWE, which were obtained through competitive bidding in more favorable market conditions.<sup>84</sup> This lower cost is reflected in the 2013 revenue requirement for WWE, and will continue to be reflected in future revenue requirements for WWE.<sup>85</sup>

53. The Final Proposal provides for an appropriate ongoing revenue requirement calculation, and establishes the 2013 annual revenue requirement, as set forth on Attachment 1 to the Department's Reply Brief.<sup>86</sup> Attachment 1 breaks out the embedded PTCs from the rest of the WWE revenue requirement. Attachment 1 reflects the expected annual revenue requirements based on current estimates. Further, future revenue requirement calculations are subject to the stipulated condition that if IPL seeks any increase above an effective levelized cost of \$56.40 per MWh in any rate proceeding, IPL must include detailed and transparent information supporting the request. IPL further agrees that it bears the burden of proof regarding a future rate increase.<sup>87</sup>

54. Under the Final Proposal, annual adjustments to the renewable energy standards rider will be subject to standard procedures and annual review by the Department and Commission.<sup>88</sup> As a result, they should be administratively convenient to implement.<sup>89</sup>

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<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> Ex. 13 at 18 (Madsen Rebuttal).

<sup>84</sup> *Id.*

<sup>85</sup> Ex. 19 at 18-22 (Nielsen Rebuttal).

<sup>86</sup> See, JOINT PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATION, PUC Docket No. E001/M-10-312 (September 11, 2013) eFiled as Document ID 20139-91185-01.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

55. The initial true-up under the Final Proposal would be limited to the period of January 1, 2013 to December 31, 2013, and limited to the amounts shown in Column G of Attachment 1 to the Department's Reply Brief, unless IPL can show that recovery above those amounts is reasonable.<sup>90</sup> IPL further agrees it will not seek recovery of any higher costs for any time period prior to January 1, 2013.<sup>91</sup>

56. In addition, in IPL's future renewable energy standards rider filings, the annual revenue requirements will be trued-up to actual capital and O&M expense.<sup>92</sup> Moreover, any proposed future increase in the annual revenue requirement that exceeds the amount in Column G of Attachment 1, will be subject to the conditions as set forth in Subparagraph g of the Final Proposal, unless IPL can show that recovery above those amounts is reasonable.<sup>93</sup> The Department acknowledges that this approach is consistent with the treatment of rider recovery for other utilities.<sup>94</sup> Also, PTCs and RECs can be reconciled through the rider starting in 2013.<sup>95</sup> As shown on Attachment 1, PTCs and RECs are separately determined.<sup>96</sup>

57. The Final Proposal preserves the ability for the Commission to evaluate prudence and costs in future proceedings.<sup>97</sup> The Commission and other parties can evaluate the prudence and appropriateness of WWE costs in any future rate case in which WWE costs are included, subject to Subparagraph g of the Final Proposal.<sup>98</sup>

Based upon the Findings of Fact, the Administrative Law Judge makes the following:

### CONCLUSIONS OF LAW

1. The Minnesota Public Utilities Commission and the Administrative Law Judge have jurisdiction over the subject matter of this proceeding pursuant to Minn. Stat. ch. 216B and Minn. Stat. § 14.50.

2. The renewable energy objectives and standards set forth in Minn. Stat. § 216B.1691 require electric utilities to procure or generate a certain percentage of electricity by an "eligible energy technology."<sup>99</sup>

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<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> Ex. 13 at 21 (Madsen Rebuttal Testimony).

<sup>96</sup> DOC'S REPLY BRIEF, PUC Docket No. E-001/M-10-312 (August 9, 2013), eFiled as Document ID 20138-90139-02 at Attachment 1.

<sup>97</sup> See, JOINT PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATION, PUC Docket No. E001/M-10-312 (September 11, 2013) eFiled as Document ID 20139-91185-01.

<sup>98</sup> *Id.*

<sup>99</sup> Minn. Stat. § 216B.1691, subds. 2 and 2a.

3. “Eligible energy technology” means an energy technology that generates electricity from a specified renewable energy source, including wind.<sup>100</sup> Therefore, WWE is an eligible energy technology under Minn. Stat. § 216B.1691.

4. As an eligible energy technology, WWE satisfies the renewable energy objectives and standards set forth in Minn. Stat. § 216B.1691.

5. Upon the petition of a public utility, the Commission shall approve or disapprove investments or expenditures made by a utility to satisfy the renewable energy objectives and standards set forth in Minn. Stat. § 216B.1691.<sup>101</sup>

6. Once approved by the Commission, qualified expenses incurred by the utility over the useful life of the renewable energy investment are recoverable from the ratepayers of the utility, to the extent they are not offset by utility revenues attributable to the investments or expenditures.<sup>102</sup>

7. To recover the costs of a qualified renewable energy investment, a utility must petition the Commission for approval of a rate schedule.<sup>103</sup> Upon petition by a public utility, the Commission shall approve or approve, as modified, a rate schedule providing for the automatic adjustment of charges to recover the renewable energy expenses or costs approved by the Commission under Minn. Stat. § 216B.1645, subd. 1.<sup>104</sup>

8. The recovery of investments, expenses, or costs associated with facilities constructed, owned, or operated by a utility to satisfy the renewable energy requirements of Minn. Stat. § 216B.1691, is limited to facilities that were: (1) previously approved by the Commission under Minn. Stat. § 216B.2422 or 216B.243; **or** (2) were determined by the Commission to be reasonable and prudent under Minn. Stat. § 216B.243, subd. 9.<sup>105</sup>

9. The parties stipulate that the investment and expenses incurred by IPL related to WWE were not previously approved by the Commission under Minn. Stat. § 216B.2422 or 216B.243. Therefore, to recover its costs for WWE from ratepayers, the Commission must determine that such investment and costs were “reasonable and prudent.”<sup>106</sup>

10. IPL and the Department initially disagreed about whether the investment and the costs incurred by IPL in building WWE were reasonable and prudent. However, as part of the global resolution of this matter, the Department stipulates to the reasonableness and prudence of IPL’s costs; and both IPL and the Department support

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<sup>100</sup> Minn. Stat. § 216B.1691, subd. 1(a)(2).

<sup>101</sup> Minn. Stat. § 216B.1645, subd. 1.

<sup>102</sup> Minn. Stat. § 216B.1645, subd. 2.

<sup>103</sup> Minn. Stat. § 216B.1645, subds. 2 and 2a.

<sup>104</sup> *Id.*

<sup>105</sup> Minn. Stat. § 216B.1645, subd. 2a (emphasis added).

<sup>106</sup> Minn. Stat. § 216B.1645, subd. 2a.

the recovery of costs to the extent detailed in the Final Proposal, set forth above. Therefore, the ALJ concludes that the costs and investments in building WWE were reasonable and prudent up to the cost recovery levels and revenue requirement amounts agreed to by the parties.

11. The Final Proposal is consistent with Minn. Stat. § 216B.16, subd. 1a, which recognizes that settlements of rate proceedings may be in the public interest and encourages parties to seek to resolve rate disputes.

12. The Final Proposal is in the public interest and resolves all WWE cost recovery issues in a reasonable manner. Further, the Final Proposal is consistent with the record and should, thus, be approved by the Commission as recommended by the parties.

Based upon the record of the proceedings, and the foregoing Findings of Fact and the Conclusions of Law, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

**IT IS HEREBY RECOMMENDED** that the Public Utilities Commission:

1. Find that IPL's investment in WWE was incurred to satisfy the renewable energy objectives and standards set forth in Minn. Stat. § 216B.1691, subds. 2 and 2a.

2. Approve IPL's investment in WWE, and its associated costs, as eligible for recovery under Minn. Stat. § 216B.1645, subject to the terms and conditions of the Final Proposal.

3. Find that the stipulated costs of WWE are reasonable and prudent, subject to the adoption of the terms and conditions of the Final Proposal.

4. Permit the recovery of the Minnesota portion of WWE's investment costs through a renewable energy standards rider under Minn. Stat. § 216B.1645, subds. 2 and 2a, as provided in the Final Proposal reached by IPL and the Department.

5. Approve the implementation of a renewable energy standards rider, under the express terms and conditions of the Final Proposal stated below.

6. Approve a 2013 renewable energy standards rider rate, as set forth in the Final Proposal below.

7. Adopt the Final Proposal accepted by IPL, the Department, OAG, and MCC, which provides as follows:

a. The final revenue requirement amount determined by the Commission in this proceeding shall commence January 1, 2013, with true-up from that date.

Recovery amounts that exceed the amounts shown in Column G of Attachment 1 to the Department's Reply Brief, will be subject to a reasonableness review, as provided in Subparagraph g below.

- b. The revenue requirement approved by the Commission shall be based on the full investment of WWE, plus the current annual O&M costs assuming a January 1, 2013 start date. Recovery amounts that exceed the amounts shown in Column G of Attachment 1 to the Department's Reply Brief, will be subject to a reasonableness review, as provided in Subparagraph g below.
- c. IPL shall forego recoveries of the approved amount above \$1.9 million per year from April 2, 2010 (initial application for cost recovery), through December 31, 2012.
- d. Current recovery levels (a revenue requirement of approximately \$1.9 million per year, including PTCs, or the equivalent of \$51 per MWH estimated levelized cost) shall continue to be recovered in the renewable energy standards rider until the final decision in this docket, which is expected to be issued by January 1, 2014.
- e. IPL will retain a renewable energy standards rider, and all PTCs and RECs shall flow through the renewable energy standards rider and be reconciled annually. The first reconciliation shall be for calendar year 2013.
- f. In the next rate case, IPL expects to propose that all prudent capital and O&M costs (excluding PTCs and RECs) will be moved into base rates, subject to review by other parties and approval by the Commission.
- g. The Commission's Order shall also include the following condition:

IPL is on notice that, if IPL seeks any increase above an effective levelized cost of \$56.40 per MWh in any rate proceeding, IPL must include detailed and transparent information supporting the request. Further, IPL bears the burden of proof regarding a future rate increase such that any doubt as to the reasonableness of the request (or of the information filed in support of the request) will go to the ratepayer.

Dated: October 17, 2013

s/Ann C. O'Reilly  
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ANN C. O'REILLY  
Administrative Law Judge

Reported: Shaddix & Associated, transcribed

## **NOTICE**

Notice is hereby given that exceptions to this Report, if any, by any party adversely affected must be filed under the time frames established in the Commission's rules of practice and procedure, Minn. R. 7829.2700 and 7829.3100, unless otherwise directed by the Commission. Exceptions should be specific and stated and numbered separately. Oral argument before a majority of the Commission will be permitted pursuant to Minn. R. 7829.2700, subp. 3. The Commission will make the final determination of the matter after the expiration of the period for filing exceptions, or after oral argument, if an oral argument is held.

The Commission may, at its own discretion, accept, modify, or reject the Administrative Law Judge's recommendations. The recommendations of the Administrative Law Judge have no legal effect unless expressly adopted by the Commission as its final order.